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**JANICE K. BREWER
SECRETARY OF STATE**

State of Arizona
House of Representatives
Forty-eighth Legislature
First Regular Session
2007

CHAPTER 278

HOUSE BILL 2753

AN ACT

AMENDING SECTIONS 28-3511, 28-3512, 28-3513, 28-3514, 28-3515 AND 41-1752, ARIZONA REVISED STATUTES; AMENDING TITLE 28, CHAPTER 11, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 28-4848; RELATING TO DRIVER LICENSE ENFORCEMENT.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 28-3511, Arizona Revised Statutes, is amended to
3 read:

4 28-3511. Removal and immobilization or impoundment of vehicle

5 A. A peace officer shall cause the removal and either immobilization
6 or impoundment of a vehicle if the peace officer determines that a person is
7 driving the vehicle while any EITHER of the following applies:

8 1. The person's driving privilege is SUSPENDED OR revoked for any
9 reason.

10 ~~2. The person's driving privilege is suspended because of a driving~~
11 ~~under the influence conviction.~~

12 ~~3. The person's driving privilege is suspended pursuant to the~~
13 ~~department's action based on a previous conviction for a violation of section~~
14 ~~28-3473.~~

15 ~~4. The person's driving privilege is suspended pursuant to section~~
16 ~~28-3306, subsection A, paragraph 3.~~

17 ~~5. 2. According to department records~~ The person has not ever been
18 issued a VALID driver license or permit BY THIS STATE and the person does not
19 produce evidence of EVER HAVING a VALID driver license OR PERMIT issued by
20 another jurisdiction.

21 3. THE PERSON IS SUBJECT TO AN IGNITION INTERLOCK DEVICE REQUIREMENT
22 PURSUANT TO CHAPTER 4 OF THIS TITLE AND THE PERSON IS OPERATING A VEHICLE
23 WITHOUT A FUNCTIONING CERTIFIED IGNITION INTERLOCK DEVICE. THIS PARAGRAPH
24 DOES NOT APPLY TO A PERSON OPERATING AN EMPLOYER'S VEHICLE OR THE OPERATION
25 OF A VEHICLE DUE TO A SUBSTANTIAL EMERGENCY AS DEFINED IN SECTION 28-1464.

26 B. A peace officer shall cause the removal and impoundment of a
27 vehicle if the peace officer determines that a person is driving the vehicle
28 and if all of the following apply:

29 1. The person's driving privilege is canceled, suspended or revoked ~~or~~
30 ~~according to department records the person has not ever been issued a driver~~
31 ~~license or permit and the person does not produce evidence of a driver~~
32 ~~license issued by another jurisdiction~~ FOR ANY REASON OR THE PERSON HAS NOT
33 EVER BEEN ISSUED A DRIVER LICENSE OR PERMIT BY THIS STATE AND THE PERSON DOES
34 NOT PRODUCE EVIDENCE OF EVER HAVING A DRIVER LICENSE OR PERMIT ISSUED BY
35 ANOTHER JURISDICTION.

36 2. The person is not in compliance with the financial responsibility
37 requirements of chapter 9, article 4 of this title.

38 3. The person is driving a vehicle that is involved in an accident
39 that results in either property damage or injury to or death of another
40 person.

41 C. Except as provided in subsection D of this section, while a peace
42 officer has control of the vehicle the peace officer shall cause the removal
43 and either immobilization or impoundment of the vehicle if the peace officer
44 has probable cause to arrest the driver of the vehicle for a violation of
45 section 4-244, paragraph 33 or section 28-1382 or 28-1383.

1 D. A peace officer shall not cause the removal and either the
2 immobilization or impoundment of a vehicle pursuant to subsection C of this
3 section if either:

4 ~~1-~~ all of the following apply:

5 ~~(a)~~ 1. The peace officer determines that the vehicle is currently
6 registered and that the driver or the vehicle is in compliance with the
7 financial responsibility requirements of chapter 9, article 4 of this title.

8 ~~(b)~~ 2. The spouse of the driver is with the driver at the time of the
9 arrest.

10 ~~(c)~~ 3. The peace officer has reasonable grounds to believe that the
11 spouse of the driver:

12 ~~(i)~~ (a) Has a valid driver license.

13 ~~(ii)~~ (b) Is not impaired by intoxicating liquor, any drug, a vapor
14 releasing substance containing a toxic substance or any combination of
15 liquor, drugs or vapor releasing substances.

16 ~~(iii)~~ (c) Does not have any spirituous liquor in the spouse's body if
17 the spouse is under twenty-one years of age.

18 ~~(d)~~ 4. The spouse notifies the peace officer that the spouse will
19 drive the vehicle from the place of arrest to the driver's home or other
20 place of safety.

21 ~~(e)~~ 5. The spouse drives the vehicle as prescribed by subdivision ~~(d)~~
22 PARAGRAPH 4 of this paragraph SUBSECTION.

23 ~~2. The vehicle is owned by the driver's parent or guardian and the~~
24 ~~peace officer has probable cause to arrest the driver of the vehicle for a~~
25 ~~violation of section 4-244, paragraph 33 but not for a violation of section~~
26 ~~28-1382 or 28-1383.~~

27 E. Except as otherwise provided in this article, a vehicle that is
28 removed and either immobilized or impounded pursuant to subsection A, ~~or~~ B or
29 C of this section shall be immobilized or impounded for thirty days. An
30 insurance company does not have a duty to pay any benefits for charges or
31 fees for immobilization or impoundment.

32 F. The owner of a vehicle that is removed and either immobilized or
33 impounded pursuant to subsection A, ~~or~~ B or C of this section, the spouse of
34 the owner and each person identified on the department's record with an
35 interest in the vehicle shall be provided with an opportunity for an
36 immobilization or poststorage hearing pursuant to section 28-3514.

37 Sec. 2. Section 28-3512, Arizona Revised Statutes, is amended to read:
38 28-3512. Release of vehicle; civil penalties; definition

39 A. An immobilizing or impounding agency shall release a vehicle to the
40 REGISTERED owner before the end of the thirty day immobilization or
41 impoundment period under any of the following circumstances:

42 1. If the vehicle is a stolen vehicle.

43 2. If the vehicle is subject to bailment and is driven by an employee
44 of a business establishment, including a parking service or repair garage,
45 who is subject to section 28-3511, subsection A, ~~or~~ B or C.

1 3. If the owner WAS OPERATING THE VEHICLE AT THE TIME OF REMOVAL AND
2 EITHER IMMOBILIZATION OR IMPOUNDMENT AND presents proof satisfactory to the
3 immobilizing or impounding agency that the owner's driving privilege has been
4 reinstated.

5 4. All of the following apply:

6 (a) The owner or the owner's agent was not the person driving the
7 vehicle pursuant to section 28-3511, subsection A.

8 (b) The owner or the owner's agent is in the business of renting motor
9 vehicles without drivers.

10 (c) The vehicle is registered pursuant to section 28-2166.

11 (d) THERE WAS A RENTAL AGREEMENT IN EFFECT AT THE TIME OF THE
12 IMMOBILIZATION OR IMPOUNDMENT.

13 5. For the spouse of the owner or any person who is identified as an
14 owner of the vehicle on the records of the department AT THE TIME OF REMOVAL
15 AND EITHER IMMOBILIZATION OR IMPOUNDMENT, if the spouse or person was not the
16 driver of the vehicle at the time of removal and either immobilization or
17 impoundment and the spouse or person enters into an agreement with the
18 immobilizing or impounding agency that stipulates that if the spouse or
19 person allows ~~an unlicensed A driver WHO DOES NOT HAVE A VALID DRIVING~~
20 ~~PRIVILEGE or a driver arrested in violation of section 4-244, paragraph 33 or~~
21 ~~section 28-1382 or 28-1383 to drive~~ WHO COMMITS A VIOLATION THAT CAUSES the
22 spouse's or person's vehicle TO BE REMOVED AND EITHER IMMOBILIZED OR
23 IMPOUNDED PURSUANT TO THIS ARTICLE within one year after the ANY agreement is
24 signed BY AN IMMOBILIZING OR IMPOUNDING AGENCY, the spouse or person will not
25 be eligible to obtain release of the spouse's or person's vehicle before the
26 end of the thirty day immobilization or impoundment period.

27 B. A vehicle shall not be released pursuant to subsection A of this
28 section except ~~on order of a justice court, immobilizing agency or impounding~~
29 ~~agency pursuant to an immobilization or a poststorage hearing under section~~
30 ~~28-3514 or on presentation of~~ IF ALL OF THE FOLLOWING ARE PRESENTED TO THE
31 IMMOBILIZING OR IMPOUNDING AGENCY:

32 1. The owner's or owner's spouse's currently valid driver license ~~to~~
33 ~~operate the vehicle and~~ ISSUED BY THIS STATE OR THE OWNER'S OR OWNER'S
34 SPOUSE'S STATE OF DOMICILE.

35 2. Proof of current vehicle registration ~~and,~~ OR A VALID SALVAGE OR
36 DISMANTLE CERTIFICATE OF TITLE.

37 3. PROOF THAT THE VEHICLE IS IN COMPLIANCE WITH THE FINANCIAL
38 RESPONSIBILITY REQUIREMENTS OF CHAPTER 9, ARTICLE 4 OF THIS TITLE.

39 4. ~~If the driving privilege of the person driving the vehicle was~~
40 ~~suspended due to a previous conviction for driving under the influence~~
41 ~~pursuant to section 28-1381, subsection K, paragraph 4, section 28-1382 or~~
42 ~~section 28-1383 and a certified ignition interlock device was required to be~~
43 ~~installed on the vehicle, on presentation of~~ THE PERSON IS REQUIRED BY THE
44 DEPARTMENT TO INSTALL A CERTIFIED IGNITION INTERLOCK DEVICE ON THE VEHICLE,
45 proof of installation of a functioning certified ignition interlock device in

1 the vehicle. The impounding agency, storage yard, facility, person or agency
2 having physical possession of the vehicle shall allow access DURING NORMAL
3 BUSINESS HOURS to the impounded vehicle for the purpose of installing a
4 certified ignition interlock device. The impounding agency, storage yard,
5 facility, person or agency having physical possession of the vehicle shall
6 not charge ~~a~~ ANY fee OR REQUIRE COMPENSATION for providing access to the
7 vehicle or for the installation of the certified ignition interlock device.

8 C. The owner OR THE OWNER'S SPOUSE IF THE VEHICLE IS RELEASED TO THE
9 OWNER'S SPOUSE is responsible for paying all immobilization, towing and
10 storage charges related to the immobilization or impoundment of the vehicle
11 and any administrative charges established pursuant to section 28-3513,
12 unless the vehicle is stolen and the theft was reported to the appropriate
13 law enforcement agency. If the vehicle is stolen and the theft was reported
14 to the appropriate law enforcement agency, the operator of the vehicle at the
15 time of immobilization or impoundment is responsible for all immobilization,
16 towing, storage and administrative charges.

17 D. The immobilizing or impounding agency shall release a vehicle to a
18 person, other than the owner, identified on the department's record as having
19 an interest in the vehicle before the end of the thirty day immobilization or
20 impoundment period if all of the following conditions are met:

21 1. The person is EITHER OF THE FOLLOWING:

22 (a) IN THE BUSINESS OF RENTING MOTOR VEHICLES WITHOUT DRIVERS AND THE
23 VEHICLE IS REGISTERED PURSUANT TO SECTION 28-2166.

24 (b) A motor vehicle dealer, bank, credit union or acceptance
25 corporation or any other licensed financial institution legally operating in
26 this state or is another person who is not the owner and who holds a security
27 interest in the vehicle.

28 2. The person pays all immobilization, towing and storage ~~fees~~ CHARGES
29 related to the immobilization or impoundment of the vehicle AND ANY
30 ADMINISTRATIVE CHARGES ESTABLISHED PURSUANT TO SECTION 28-3513 unless the
31 vehicle is stolen and the theft was reported to the appropriate law
32 enforcement agency. If the vehicle is stolen and the theft was reported to
33 the appropriate law enforcement agency, the operator of the vehicle at the
34 time of immobilization or impoundment is responsible for all immobilization,
35 towing, storage and administrative charges.

36 3. The person presents foreclosure documents or an affidavit of
37 repossession of the vehicle.

38 4. THE PERSON REQUESTING RELEASE OF THE VEHICLE WAS NOT THE PERSON
39 DRIVING THE VEHICLE AT THE TIME OF REMOVAL AND IMMOBILIZATION OR IMPOUNDMENT.

40 E. Before a person described in subsection D of this section releases
41 the vehicle TO THE OWNER WHO WAS OPERATING THE VEHICLE AT THE TIME OF REMOVAL
42 AND IMMOBILIZATION OR IMPOUNDMENT, the person DESCRIBED IN SUBSECTION D OF
43 THIS SECTION SHALL REQUIRE THE OWNER TO PRESENT AND SHALL RETAIN FOR A PERIOD
44 OF AT LEAST THREE YEARS FROM THE DATE OF RELEASING THE VEHICLE A COPY OF ALL
45 OF THE FOLLOWING:

1 1. A DRIVER LICENSE ISSUED BY THIS STATE OR THE OWNER'S OR OWNER'S
2 AGENT'S STATE OF DOMICILE.

3 2. A CURRENT VEHICLE REGISTRATION OR A VALID SALVAGE OR DISMANTLE
4 CERTIFICATE OF TITLE.

5 3. EVIDENCE THAT THE VEHICLE IS IN COMPLIANCE WITH THE FINANCIAL
6 RESPONSIBILITY REQUIREMENTS OF CHAPTER 9, ARTICLE 4 OF THIS TITLE.

7 F. THE PERSON DESCRIBED IN SUBSECTION D OF THIS SECTION may require
8 the owner to pay charges that the person incurred in connection with
9 obtaining custody of the vehicle, including all immobilization, towing and
10 storage charges that are related to the immobilization or impoundment of the
11 vehicle and any administrative charges that are established pursuant to
12 section 28-3513.

13 G. A vehicle shall not be released after the end of the thirty day
14 immobilization or impoundment period ~~except on presentation of~~ UNLESS the
15 ~~owner's or owner's agent's currently~~ OWNER OR OWNER'S AGENT PRESENTS ALL OF
16 THE FOLLOWING TO THE IMPOUNDING OR IMMOBILIZING AGENCY:

17 1. A valid driver license ~~to operate the vehicle and proof of current~~
18 ~~vehicle registration and,~~ ISSUED BY THIS STATE OR BY THE OWNER'S OR OWNER'S
19 AGENT'S STATE OF DOMICILE.

20 2. A CURRENT VEHICLE REGISTRATION OR A VALID SALVAGE OR DISMANTLE
21 CERTIFICATE OF TITLE.

22 3. EVIDENCE THAT THE VEHICLE IS IN COMPLIANCE WITH THE FINANCIAL
23 RESPONSIBILITY REQUIREMENTS OF CHAPTER 9, ARTICLE 4 OF THIS TITLE.

24 4. ~~If the driving privilege of the person driving the vehicle was~~
25 ~~suspended due to a previous conviction for driving under the influence~~
26 ~~pursuant to section 28-1381, subsection K, paragraph 4, section 28-1382 or~~
27 ~~section 28-1383 and a certified ignition interlock device was required to be~~
28 ~~installed on the vehicle, on presentation of~~ THE PERSON IS REQUIRED BY THE
29 DEPARTMENT TO INSTALL A CERTIFIED IGNITION INTERLOCK DEVICE ON THE VEHICLE,
30 proof of installation of a functioning certified ignition interlock device in
31 the vehicle. The impounding agency, storage yard, facility, person or agency
32 having physical possession of the vehicle shall allow access DURING NORMAL
33 BUSINESS HOURS to the impounded vehicle for the purpose of installing a
34 certified ignition interlock device. The impounding agency, storage yard,
35 facility, person or agency having physical possession of the vehicle shall
36 not charge ~~a~~ ANY fee OR REQUIRE COMPENSATION for providing access to the
37 vehicle or for the installation of the certified ignition interlock device.

38 ~~G.~~ H. The storage charges relating to the impoundment of a vehicle
39 pursuant to this section shall ~~either:~~

40 ~~1.~~ be subject to a contractual agreement between the impounding agency
41 and a towing firm for storage services pursuant to section 28-1108 BUT
42 SHALL—

43 ~~2.~~ not exceed fifteen dollars for each day of storage, INCLUDING ANY
44 TIME THE VEHICLE REMAINS IN STORAGE AFTER THE END OF THE THIRTY DAY
45 IMPOUNDMENT PERIOD.

1 H. I. The immobilizing or impounding agency shall have no lien or
2 possessory interest in a stolen vehicle if the theft was reported to the
3 appropriate law enforcement agency. The immobilizing or impounding agency
4 shall release the vehicle to the owner or person other than the owner as
5 identified in subsection D of this section even if the operator at the time
6 of immobilization or impoundment has not paid all immobilization, towing,
7 storage and administrative fees CHARGES.

8 J. A PERSON WHO ENTERS INTO AN AGREEMENT PURSUANT TO SUBSECTION A,
9 PARAGRAPH 5 OF THIS SECTION AND WHO ALLOWS ANOTHER PERSON TO OPERATE THE
10 VEHICLE IN VIOLATION OF THE AGREEMENT IS RESPONSIBLE FOR A CIVIL TRAFFIC
11 VIOLATION AND SHALL PAY A CIVIL PENALTY OF AT LEAST TWO HUNDRED FIFTY
12 DOLLARS.

13 K. A PERSON DESCRIBED IN SUBSECTION D, PARAGRAPH 1 OF THIS SECTION WHO
14 VIOLATES SUBSECTION E OF THIS SECTION IS RESPONSIBLE FOR A CIVIL TRAFFIC
15 VIOLATION AND SHALL PAY A CIVIL PENALTY OF AT LEAST TWO HUNDRED FIFTY
16 DOLLARS.

17 ~~H.~~ L. For the purposes of this section, "certified ignition interlock
18 device" has the same meaning prescribed in section 28-1301.

19 Sec. 3. Section 28-3513, Arizona Revised Statutes, is amended to read:
20 28-3513. Administrative charges

21 A. The immobilizing or impounding agency shall establish procedures
22 for immobilization hearings or poststorage hearings, for the release of
23 properly immobilized or impounded vehicles and for imposition of a charge
24 ~~equal to the~~ FOR administrative costs relating to the removal,
25 immobilization, impoundment, storage or release of a vehicle. The
26 immobilizing or impounding agency may waive the administrative charges.

27 B. The administrative charges established pursuant to this section
28 shall not exceed one hundred fifty dollars.

29 C. The immobilizing or impounding agency shall collect any
30 administrative charges at the time of the release of the vehicle unless the
31 vehicle is stolen and the theft was reported to the appropriate law
32 enforcement agency. If the vehicle is stolen and the theft was reported to
33 the appropriate law enforcement agency, the operator of the vehicle at the
34 time of immobilization or impoundment is responsible for all towing,
35 immobilization, storage and administrative charges.

36 D. The administrative charges established pursuant to this section are
37 in addition to any other immobilization, impoundment or storage charges.

38 E. A justice court providing an immobilization or poststorage hearing
39 may collect a fee equal to the fee established pursuant to section 22-281 for
40 a small claims answer.

41 F. IF THE IMMOBILIZING OR IMPOUNDING AGENCY IS:

42 1. A MUNICIPALITY, THE ADMINISTRATIVE CHARGES COLLECTED PURSUANT TO
43 THIS SECTION SHALL BE TRANSMITTED TO THE CITY TREASURER FOR DEPOSIT IN A
44 SPECIAL FUND ESTABLISHED BY THE MUNICIPALITY FOR THE PURPOSE OF IMPLEMENTING
45 SECTION 28-872 AND THIS ARTICLE.

1 2. A COUNTY, THE ADMINISTRATIVE CHARGES COLLECTED PURSUANT TO THIS
2 SECTION SHALL BE TRANSMITTED TO THE COUNTY TREASURER FOR DEPOSIT IN A SPECIAL
3 FUND ESTABLISHED BY THE COUNTY FOR THE PURPOSE OF IMPLEMENTING SECTION 28-872
4 AND THIS ARTICLE.

5 3. THE DEPARTMENT OF PUBLIC SAFETY, THE ADMINISTRATIVE CHARGES
6 COLLECTED PURSUANT TO THIS SECTION SHALL BE DEPOSITED, PURSUANT TO SECTIONS
7 35-146 AND 35-147, IN THE ARIZONA HIGHWAY PATROL FUND ESTABLISHED BY SECTION
8 41-1752.

9 Sec. 4. Section 28-3514, Arizona Revised Statutes, is amended to read:
10 28-3514. Hearings; notice of immobilization or storage

11 A. If a peace officer removes and either immobilizes or impounds a
12 vehicle pursuant to section 28-3511, the immobilizing or impounding agency
13 may provide the owner, the spouse of the owner and any other person
14 identified on the department's record as having an interest in the vehicle
15 with the opportunity for an immobilization or poststorage hearing to
16 determine the validity of the immobilization or storage or consider any
17 mitigating circumstances relating to the immobilization or storage or release
18 of the vehicle before the end of the thirty day immobilization or impoundment
19 period. If the immobilizing or impounding agency provides the opportunity
20 for an immobilization or poststorage hearing, the immobilizing or impounding
21 agency shall conduct the hearing in accordance with any of the following:

22 1. In the immobilizing or impounding agency's jurisdiction.

23 2. Telephonically.

24 3. Pursuant to procedures prescribed by the immobilizing or impounding
25 agency to transfer the authority to conduct the immobilization or poststorage
26 hearing to a law enforcement agency in the jurisdiction in which the owner,
27 the spouse of the owner, the owner's agent or any person identified in the
28 department's record as having an interest in the vehicle resides.

29 B. If the immobilizing or impounding agency does not provide an
30 opportunity for an immobilization or poststorage hearing, a justice court
31 shall conduct the immobilization or poststorage hearing. If an
32 immobilization or poststorage hearing is conducted by a justice court, the
33 immobilizing or impounding agency shall appear and show evidence.
34 Immobilization or poststorage hearings conducted by a justice court shall be
35 considered as civil filings for the purposes of judicial productivity
36 credits.

37 C. Within ~~two working~~ THREE BUSINESS days after immobilization or
38 impoundment, EXCLUDING WEEKENDS AND HOLIDAYS, the immobilizing or impounding
39 agency shall send a notice of storage by first class mail to each person,
40 other than the owner, identified on the department's record as having an
41 interest in the vehicle. Service of notice of immobilization or storage is
42 complete on mailing. If the immobilizing or impounding agency fails to
43 notify a person, other than the owner, identified on the department's record
44 as having an interest in the vehicle within ~~two working~~ THREE BUSINESS days
45 after immobilization or impoundment, EXCLUDING WEEKENDS AND HOLIDAYS, the

1 immobilizing agency or the person in possession of the vehicle shall not
2 charge ANY ADMINISTRATIVE FEES OR more than fifteen days' immobilization or
3 impoundment when the person redeems the impounded vehicle or has the
4 immobilization device removed from the vehicle.

5 D. Within ~~two working~~ THREE BUSINESS days after immobilization or
6 impoundment, EXCLUDING WEEKENDS AND HOLIDAYS, the immobilizing or impounding
7 agency shall mail or personally deliver notice of immobilization or storage
8 to the owner of the vehicle.

9 E. The notice of immobilization or storage shall include all of the
10 following information:

11 1. A statement that the vehicle was immobilized or impounded.

12 2. The name, address and telephone number of the immobilizing or
13 impounding agency providing the notice.

14 3. The name, address and telephone number of the immobilizing or
15 impounding agency or justice court that will provide the immobilization or
16 poststorage hearing.

17 4. The location of the place of storage and a description of the
18 vehicle, including, if available, the manufacturer, model, license plate
19 number and mileage of the vehicle.

20 5. A statement that in order to receive an immobilization or
21 poststorage hearing the owner, the spouse of the owner, the owner's agent or
22 the person identified in the department's record as having an interest in the
23 vehicle, within ten days after the date on the notice, shall request an
24 immobilization or poststorage hearing by contacting the immobilizing or
25 impounding agency in person or in writing or by filing a request with the
26 justice court IF THE IMPOUNDING AGENCY DOES NOT PROVIDE FOR A HEARING and
27 paying a fee equal to the fee established pursuant to section 22-281 for a
28 small claims answer.

29 6. A statement that if the immobilizing or impounding agency does not
30 provide the opportunity for an immobilization or poststorage hearing, the
31 owner, the spouse of the owner, the owner's agent or any person identified in
32 the department's record as having an interest in the vehicle may request that
33 the immobilization or poststorage hearing be conducted by a justice court in
34 the immobilizing or impounding agency's jurisdiction or the jurisdiction in
35 which the owner, the spouse of the owner, the owner's agent or the person
36 identified in the department's record as having an interest in the vehicle
37 resides.

38 F. The immobilization or poststorage hearing shall be conducted by the
39 immobilizing or impounding agency or justice court within five ~~working~~
40 BUSINESS days, EXCLUDING WEEKENDS AND HOLIDAYS, after receipt of the request.

41 G. Failure of the owner, the spouse of the owner or other person or
42 the other person's agent to request AN IMMOBILIZATION OR POSTSTORAGE HEARING
43 WITHIN TEN DAYS AFTER THE DATE ON THE NOTICE PRESCRIBED IN SUBSECTION E OF
44 THIS SECTION or to attend a scheduled hearing satisfies the immobilization or
45 poststorage hearing requirement.

1 H. The immobilizing or impounding agency employing the person who
2 directed the immobilization or storage is responsible for the costs incurred
3 for immobilization, towing and storage if it is determined in the
4 immobilization or poststorage hearing that reasonable grounds for the
5 immobilization or impoundment and storage are not established.

6 I. IN COMPLIANCE WITH THE REQUIREMENTS OF THIS SECTION, THE VEHICLE
7 OWNER, THE VEHICLE OWNER'S SPOUSE OR OTHER PERSON HAVING AN INTEREST IN THE
8 VEHICLE SHALL HAVE AN OPPORTUNITY FOR A SINGLE POSTSTORAGE HEARING FOR THE
9 RELEASE OF THE VEHICLE BY EITHER THE IMMOBILIZING OR IMPOUNDING AGENCY OR A
10 JUSTICE COURT BUT NOT BOTH.

11 Sec. 5. Section 28-3515, Arizona Revised Statutes, is amended to read:

12 28-3515. Unclaimed vehicles

13 If a claim has not been made for the return or possession of the
14 vehicle by a person legally entitled to the vehicle within thirty days after
15 a vehicle is impounded pursuant to this article, the person who has
16 possession of the vehicle shall submit an abandoned vehicle report as
17 provided in section 28-4838. THE IMMOBILIZING OR IMPOUNDING AGENCY SHALL
18 REQUIRE THE PERSON WHO TAKES POSSESSION OF A VEHICLE PURSUANT TO THIS SECTION
19 TO OBTAIN A RELEASE FOR THE VEHICLE FROM THE IMMOBILIZING OR IMPOUNDING
20 AGENCY.

21 Sec. 6. Title 28, chapter 11, article 2, Arizona Revised Statutes, is
22 amended by adding section 28-4848, to read:

23 28-4848. Access to vehicle; ignition interlock device
24 installer; lienholder; fee prohibited; violation;
25 classification

26 A. A TOWING COMPANY, STORAGE YARD, FACILITY OR PERSON THAT HAS
27 PHYSICAL POSSESSION OF A VEHICLE THAT WAS REMOVED PURSUANT TO SECTION
28 9-499.05, 11-251.04 OR 28-872, THAT WAS IMPOUNDED PURSUANT TO CHAPTER 8,
29 ARTICLE 9 OF THIS TITLE OR THAT WAS ABANDONED SHALL PROVIDE ACCESS DURING
30 NORMAL BUSINESS HOURS TO A PERSON WHO PRESENTS EVIDENCE THAT THE PERSON
31 EITHER:

32 1. IS CERTIFIED BY THE DEPARTMENT AS AN IGNITION INTERLOCK DEVICE
33 MANUFACTURER OR INSTALLER AND REQUIRES ACCESS TO THE VEHICLE FOR THE PURPOSE
34 OF REMOVING THE DEVICE FROM THE VEHICLE.

35 2. IS LISTED AS A LIENHOLDER ON THE DEPARTMENT'S RECORDS FOR THE
36 VEHICLE AND REQUIRES ACCESS TO THE VEHICLE FOR THE PURPOSE OF ASSESSING THE
37 CONDITION OF THE VEHICLE.

38 B. AFTER COMPLYING WITH SUBSECTION C OF THIS SECTION, AN IGNITION
39 INTERLOCK DEVICE MANUFACTURER OR INSTALLER OR A LIENHOLDER WHO IS DENIED
40 ACCESS TO A VEHICLE BY A TOWING COMPANY, STORAGE YARD, FACILITY OR PERSON
41 THAT HAS PHYSICAL POSSESSION OF THE VEHICLE MAY REPORT THE DENIAL TO THE
42 IMPOUNDING AGENCY OR A LAW ENFORCEMENT AGENCY THAT HAS JURISDICTION IN THE
43 CITY OR COUNTY IN WHICH THE VEHICLE IS BEING STORED AND MAY SUBMIT A WRITTEN
44 REQUEST FOR ASSISTANCE AS PRESCRIBED BY THE IMPOUNDING AGENCY OR LAW
45 ENFORCEMENT AGENCY TO OBTAIN ACCESS TO THE VEHICLE FOR THE PURPOSES

1 PRESCRIBED IN THIS SECTION. THE IMPOUNDING AGENCY OR THE LAW ENFORCEMENT
2 AGENCY SHALL PROVIDE ASSISTANCE TO THE LIENHOLDER IN OBTAINING ACCESS TO THE
3 VEHICLE WITHIN FIVE BUSINESS DAYS AFTER THE DATE THE WRITTEN REQUEST IS
4 RECEIVED BY THE IMPOUNDING AGENCY OR LAW ENFORCEMENT AGENCY.

5 C. A TOWING COMPANY, STORAGE YARD, FACILITY OR PERSON THAT HAS
6 PHYSICAL POSSESSION OF A VEHICLE AS PRESCRIBED IN SUBSECTION A OF THIS
7 SECTION SHALL PROVIDE ACCESS DURING NORMAL BUSINESS HOURS TO AN IGNITION
8 INTERLOCK DEVICE MANUFACTURER OR INSTALLER OR LIENHOLDER WHO SUBMITS A
9 REQUEST FOR ACCESS TO A VEHICLE. THE REQUEST FOR ACCESS SHALL BE IN WRITING,
10 SHALL CONTAIN THE NAME, ADDRESS AND TELEPHONE NUMBER OF THE PERSON MAKING THE
11 REQUEST FOR ACCESS TO THE VEHICLE AND EITHER:

12 1. FOR A LIENHOLDER, SHALL INCLUDE A COPY OF A SIGNED CONTRACT, LOAN
13 AGREEMENT OR CREDIT AGREEMENT INDICATING THE VEHICLE OWNER'S NAME, THE
14 VEHICLE IDENTIFICATION NUMBER, THE VEHICLE MAKE AND MODEL OR OTHER
15 IDENTIFYING INDICIA OR A CERTIFIED RECORD ISSUED BY THE DEPARTMENT LISTING
16 THE PERSON AS A LIENHOLDER.

17 2. FOR AN IGNITION INTERLOCK DEVICE MANUFACTURER OR INSTALLER, SHALL
18 INCLUDE A COPY OF A SIGNED CONTRACT IDENTIFYING THE MAKE AND MODEL OR SERIAL
19 NUMBER OF THE IGNITION INTERLOCK DEVICE, THE MAKE AND MODEL OF THE VEHICLE OR
20 THE VEHICLE IDENTIFICATION NUMBER OF THE VEHICLE IN WHICH THE DEVICE IS
21 INSTALLED.

22 D. IF THE VEHICLE OWNER DOES NOT INSPECT THE VEHICLE BEFORE REMOVAL OF
23 THE IGNITION INTERLOCK DEVICE BY THE MANUFACTURER OR INSTALLER, OR HAS
24 INSPECTED THE VEHICLE AND HAS HAD THE OPPORTUNITY TO REMOVE PERSONAL PROPERTY
25 IN THE VEHICLE, A REBUTTABLE PRESUMPTION IS CREATED THAT DAMAGE TO THE
26 VEHICLE AND ANY LOSS OF PERSONAL PROPERTY IN THE VEHICLE OCCURRED WHILE THE
27 VEHICLE WAS NOT IN THE CUSTODY OF THE TOWING COMPANY, STORAGE YARD, FACILITY
28 OR PERSON THAT HAS PHYSICAL POSSESSION OF THE VEHICLE. THE PRESUMPTION MAY
29 BE OVERCOME BY A PREPONDERANCE OF EVIDENCE TO THE CONTRARY.

30 E. THIS SECTION DOES NOT CREATE A CAUSE OF ACTION OR A RIGHT TO BRING
31 AN ACTION AGAINST A TOWING COMPANY, STORAGE YARD, FACILITY OR PERSON THAT HAS
32 PHYSICAL POSSESSION OF THE VEHICLE FOR ALLOWING ACCESS TO A VEHICLE TO A
33 PERSON OTHER THAN THE OWNER IF THE WRITTEN REQUEST AS PRESCRIBED IN THIS
34 SECTION IS PROVIDED TO THE TOWING COMPANY, STORAGE YARD, FACILITY OR PERSON
35 THAT HAS PHYSICAL POSSESSION OF THE VEHICLE.

36 F. A TOWING COMPANY, STORAGE YARD, FACILITY OR PERSON THAT HAS
37 PHYSICAL POSSESSION OF A VEHICLE SHALL NOT CHARGE A FEE OR REQUIRE OR REQUEST
38 ANY COMPENSATION FOR PROVIDING ACCESS TO A VEHICLE PURSUANT TO THIS SECTION.

39 G. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2
40 MISDEMEANOR.

41 Sec. 7. Section 41-1752, Arizona Revised Statutes, is amended to read:
42 41-1752. Arizona highway patrol fund

43 A. An Arizona highway patrol fund is established.

44 B. The Arizona highway patrol fund consists of:

1 1. Monies distributed to the fund from the Arizona highway user
2 revenue fund by the legislature subject to section 28-6537.

3 2. Miscellaneous service fees.

4 3. Rewards.

5 4. Awards.

6 5. Insurance recoveries.

7 6. Receipts from the sale or disposal of any property held by the
8 Arizona highway patrol or purchased with Arizona highway patrol monies.

9 7. Monies received from the public safety personnel retirement system
10 pursuant to section 20-224.01.

11 8. MONIES DEPOSITED PURSUANT TO SECTION 28-3513.

12 C. Subject to legislative appropriation, the patrol superintendent
13 shall administer and spend monies in the Arizona highway patrol fund in
14 conformity with the laws governing state financial operations.

15 D. Monies in the Arizona highway patrol fund:

16 1. Do not revert to the state general fund or Arizona highway user
17 revenue fund.

18 2. Are exempt from the provisions of section 35-190 relating to
19 lapsing of appropriations.

20 E. Subject to legislative appropriation, monies in the Arizona highway
21 patrol fund shall be used to administer the provisions of law relating to the
22 highway patrol and the Arizona highway patrol reserve and all matters
23 pertaining to those laws, except that monies received pursuant to subsection
24 B, paragraph 7 of this section shall be used for the department of public
25 safety.

APPROVED BY THE GOVERNOR JULY 2, 2007.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JULY 2, 2007.